

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G400712

ADOLPH SCOTT,
EMPLOYEE

CLAIMANT

ARKANSAS SCHOOL FOR THE DEAF,
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,
INSURANCE CARRIER/TPA

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED FEBRUARY 23, 2022

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE CHARLES H. McLEMORE, Attorney at Law, Little Rock, Arkansas.

Respondents No. 2 represented by the HONORABLE CHRISTY L. KING, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted as Modified.

OPINION AND ORDER

The claimant appeals and Respondent No. 1 cross-appeals an administrative law judge's opinion filed August 11, 2021. The administrative law judge found:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.

3. Claimant has not proven by a preponderance of the evidence that he is permanently and totally disabled.
4. Claimant has proven by a preponderance of the evidence that he is entitled to wage loss disability of thirty percent (30%).
5. Respondents No. 1 have proven by a preponderance of the evidence that they are entitled to a dollar-for-dollar offset under Ark. Code Ann. §11-9-411 (Repl. 2012) concerning disability benefits Claimant receives from the Arkansas Teacher Retirement System.
6. Claimant has proven by a preponderance of the evidence that he is entitled to a controverted attorney's fee on all indemnity benefits awarded herein, pursuant to Ark. Code Ann. §11-9-715(Repl. 2012).

After reviewing the entire record *de novo*, it is our opinion that the administrative law judge's decision is supported by a preponderance of the evidence and that the decision, as modified herein, correctly applies the law. The Full Commission expressly finds that Respondent No. 1 is entitled to a dollar-for-dollar offset of the claimant's retirement disability based on Respondent No. 1's contributions to same. Respondent No. 1 is not entitled to an offset for that portion of the retirement disability paid for by the claimant. See Ark. Code Ann. §11-9-411(a)(2)(Repl. 2012); *Brigman v. City of West Memphis*, 2013 Ark. App. 66.

We otherwise find that the administrative law judge's findings of fact are correct as modified and are therefore adopted by the Full Commission. Therefore, we affirm and adopt the administrative law judge's August 11, 2021 opinion, as modified, as the opinion of the Full Commission on appeal.

The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). For prevailing in part on appeal, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner